

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 247 OF 2003

TOLU PAICA VELIPO AND 11 ORS.,

....Petitioners

Versus

SHRI SHANTI DULBHA NAIK DESSAI AND
49 ORS.,

....Respondents

Shri R.G. Ramani, Advocate for the Petitioners.

Shri D. Pangam, Advocate for r.49

Coram:- DR. S. RADHAKRISHNAN, J.

Date:- 13th October, 2006

P.C.:

1. Heard learned counsel for the petitioners and learned counsel for the respondent No.49. None of the respondents are present though served.
2. In the above matter the petitioners are challenging the Orders dated 29.4.03 and 3.05.03 whereby the learned trial Court had declined to grant any further adjournment while defence witness No.1 was under cross-examination.
3. The main grievance of the petitioners is that the Advocate for the petitioners/plaintiffs withdrew his appearance and as it was during the fag end of the court session when summer vacation was about to start, the petitioners could not engage another advocate and no Advocate was willing to file wakalatnama. Under these circumstances, it appears that the petitioners-plaintiffs could not engage another Advocate. In the facts and circumstances, the learned Civil Judge J.D. had closed the evidence of the said defence witness and adjourned the matter for further evidence.

4. The learned counsel for the petitioners, Mr. Ramani states that a new Advocate has been engaged on behalf of the petitioners/plaintiffs and the petitioners are ready to proceed with the trial since the above trial was stayed by this court on 12th June, 2003.

5. Having regard to the facts and circumstances of the case, and as the plaintiffs have engaged another Advocate and can proceed with the trial, the impugned order is quashed and set aside and the learned Civil Judge J.D. shall permit the plaintiffs to continue with the cross-examination of defence witness No.1 and record further evidence and expeditiously dispose of the suit. Rule is made absolute accordingly.

DR. S. RADHAKRISHNAN, J.

sl.